

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES

Plaintiff

v.

KEITH ANDREW ANDERSON

Defendant

2007 OCT 19

A. P. HAY

U.S. DISTRICT

MIDDLE DISTRICT

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Case no. 2:07-cr-136-MHT

DEFENDANT'S SUPPLEMENTAL RESPONSE TO PRE-SENTENCE REPORT

COMES NOW the Defendant, **KEITH ANDREW ANDERSON**, by and through undersigned counsel and files this Supplemental Response to the Pre-Sentence Report; addressing the following paragraphs of the pre-sentence report in the above styled case. Your Defendant says as follows:

1. Pursuant to Rule 11(c)(1)(B) and a written plea agreement, on July 25, 2007 Keith Andrew Anderson entered a plea of guilty to all three counts of the information.
2. The plea agreement specified, inter alia, that the government would recommend a sentence term within the applicable guideline range subject to any applicable mandatory minimum sentences, and that the Defendant would receive an appropriate reduction for acceptance of responsibility.

3. On October 16, 2007, the forensic computer data made basis of charges against this defendant was reviewed.
4. The computer files made basis of Counts I (production) and III (possession) were found on two separate computers; one “not-in-use” and found stored in a closet, and the other “in-use” but whose offending images had apparently previously been deleted.
5. The amount of time that had transpired between the deletions and the arrest is a matter of controversy, ranging from about a week at a minimum to about four months at a maximum; viewed most favorable to the Defendant, the computer files on the “in-use” computer had long since been deleted.
6. The Alabama Bureau of Investigation used special software to recover these deleted offending images on the Defendant’s “in-use” computer.
7. The time gap between when the files were deleted and when Mr. Anderson was arrested cast serious shadows on several code sections that would ordinarily add to the offence level;
8. Paragraph 15 of the pre-sentence report deals with specific offense characteristics in that some of the images involved prepubescent minors. Pursuant to U.S.S.G. § 2G2.2(b)(2), a two level increase would ordinarily be added;
9. Paragraph 17 of the pre-sentence report deals with specific offense characteristics in that some of the images portrayed material involving sadistic or masochistic conduct (penetration). Pursuant to U.S.S.G. § 2G2.2(b)(4), a four level increase would ordinarily be added;

10. Paragraph 19 of the pre-sentence report deals with specific offense characteristics in offenses involved more than 600 images. Pursuant to U.S.S.G. § 2G2.2(b)(7)(A), the offense level would ordinarily be increased by five levels;
11. That because the offending images were *in assessable* (deleted from the useable computer and found on the old computer stored in a closet), the above sentence enhancing code sections should be examined for appropriateness in enhancing the sentencing of this Defendant.

WHEREFORE, PREMISES CONSIDERED, KEITH ANDREW ANDERSON prays that these observations be taken into account while this Honorable Court decides an appropriate sentence for his misgivings.

/s/ Joseph Keith Rodgers
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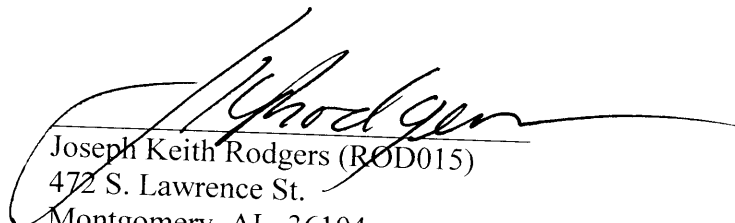
CERTIFICATE OF SERVICE

I certify that on the 16th day of October 2007, the foregoing document was served on counsel listed below, properly addressed and pre-paid, in the following manner:

- ☐ Facsimile;
- ☐ Facsimile, original to follow by United States mail, first class, properly addressed;
- ☒ United States mail, first class, properly addressed;
- ☐ United States mail, Express Mail delivery;
- ☐ Federal Express, overnight delivery;
- ☐ United Parcel Service, overnight delivery;
- ☐ Hand delivery;

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